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ALEXANDER L. STEVAS

No. 83-346

In the Supreme Court of the United States

OCTOBER TERM, 1983

UNITED STATES OF AMERICA, PETITIONER

v.

ESMAIL YERMIAN

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED AUGUST 31, 1983
CERTIORARI GRANTED NOVEMBER 28, 1983

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

UNITED STATES *v.* ESMAIL YERMIAN

CR 81-00043-01-RJK

DATE	PROCEEDING
January 16, 1981	Indictment
January 26, 1981	Arraignment
March 10, 1981	Proceedings on trial before the Honorable Manuel Real; Jury returns verdict of guilty on all counts
March 30, 1981	Defendant sentenced
April 8, 1981	Notice of appeal filed

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

ESMAIL YERMIAN *v.* UNITED STATES

C.A. No. 81-1192

DATE	PROCEEDING
April 19, 1983	Court of Appeals order and judgment
July 5, 1983	Petition for rehearing denied
November 28, 1983	Order of Supreme Court granting petition for a writ of certiorari

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

September 1980 Grand Jury

CR 81-0043

UNITED STATES OF AMERICA, PLAINTIFF,

v.

ESMAIL YERMIAN, DEFENDANT.

INDICTMENT

(18 U.S.C. § 1001: False Statement to a Government Agency)

The Grand Jury charges:

COUNT ONE
(18 U.S.C. § 1001)

On or about August 24, 1979, in Los Angeles County, within the Central District of California, defendant ESMAIL YERMIAN knowingly and willfully made a false, fictitious and fraudulent statement and representation as to material facts in a matter within the jurisdiction of United States Department of Defense, an agency of the United States, in that defendant ESMAIL YERMIAN, in response to question number 22 on a Personal Security Questionnaire, failed to disclose to officials of the Department of Defense that he had a prior felony conviction for a violation of Title 18, United States Code, Section 1341, mail fraud, which defendant ESMAIL YERMIAN then and there well knew.

COUNT TWO
(18 U.S.C. § 1001)

On or about August 24, 1979, in Los Angeles County, within the Central District of California, defendant ESMAIL YERMIAN knowingly and willfully made a false, fictitious and fraudulent statement and representation as to material facts in a matter within the jurisdiction of United States Department of Defense, an agency of the United States, in that defendant ESMAIL YERMIAN, in response to question 10 on a Personnel Security Question-

naire, stated to officials of the United States Department of Defense that he was employed by Bell Helicopter International in "Iran-Houston, Texas" from February 1975 to March 1979, whereas in truth and fact as defendant ESMAIL YERMIAN then and there well knew, he had never been employed by Bell Helicopter International.

COUNT THREE

(18 U.S.C. § 1001)

On or about August 24, 1979, in Los Angeles County, within the Central District of California, defendant ESMAIL YERMIAN knowingly and willfully made a false, fictitious and fraudulent statement and representation as to material facts in a matter within the jurisdiction of United States Department of Defense, an agency of the United States, in that defendant ESMAIL YERMIAN, in response to question 10 on a Personnel Security Questionnaire, stated to officials of the United States Department of Defense that he was employed by Square D of Los Angeles, California, whereas in truth and fact as defendant ESMAIL YERMIAN then and there well knew, he had never been employed by Square D of Los Angeles, California.

A TRUE BILL

/S/ _____

Foreperson

/s/ _____

ANDREA SHERIDAN ORDIN
United States Attorney

TESTIMONY OF RUBY LANE

RUBY LANE, called as a witness on behalf of plaintiff, having been first duly sworn, was examined and testified as follows:

THE CLERK: Please be seated. State your full name and spell your last name for the record.

THE WITNESS: Ruby Lane, L-a-n-e.

DIRECT EXAMINATION

BY MR. DeWITT:

Q Miss Lane, could you tell us where you are employed.

A At Gulton Industries.

Q How long have you been employed there?

A 15 years.

[46A] Q Could you briefly describe your duties there.

A I am Executive Secretary to the President of our division. I am also the Security Officer.

Q Could you tell us in a little more detail about your role as a security officer.

A I am responsible for the classified material that comes in and out of our facility. I assist the employees in obtaining security clearance.

MR. DeWITT: I would request Government's Exhibits 1, 2, 3 and 4 be placed before the witness.

THE CLERK: Marked for identification and before the witness. (Plaintiff's Exhibits 1, 2, 3 and 4 were marked for identification.)

BY MR. DeWITT:

Q Calling your attention first to Government's Exhibit No. 1, do you have that?

A Yes.

Q Are you familiar with this document?

A Yes, I am.

Q Can you tell us what this is?

A This is a work sheet for preparation of a Personnel Security Questionnaire, which we give to all [47] of our employees who we want to have cleared. We give them a work sheet along with an instruction sheet and ask them to fill out the work sheet per the instruction sheet.

Q Calling your attention now to Exhibit 4, this is the instruction sheet to which you just referred?

A Yes, it is.

Q Do you recognize the name, Esmail Yermian?

A Yes.

Q And was Mr. Yermian employed at Gulton?

A Yes, that is correct.

Q What did he do there?

A He worked in our engineering department.

Q Is Mr. Yermian in the courtroom today?

A Yes, he is.

Q Could you identify him for us?

A Yes. He is sitting right over here (indicating.)

THE COURT: The record will indicate the witness has identified the defendant, Esmail Yermian.

BY MR. DeWITT:

Q Again referring to Exhibit 1, did you ask Mr. Yermian to complete this work sheet?

A Yes.

Q Can you recall when you asked him to complete it?

[48] A I do not have an exact date, but it would have been around the middle of April.

Q Did you give a copy of the instructions, that is, Government's Exhibit 4, to Mr. Yermian at the time you asked him to complete the work sheet?

A Yes.

Q And can you tell us whether or not Mr. Yermian did complete the work sheet?

A Yes, he did complete the work sheet and return it to me within two or three weeks.

Q And after he returned it, did you examine the work sheet?

A Yes. I went through it to see if he had left anything out or if there was anything that needed clarification.

There were a couple of items that I asked him about, and these are the ones that are written in my hand on the exhibit.

Q When you added this information, did you talk to the defendant about it before you added it?

A Yes.

Q Did you talk to him in person or over the telephone? How did you talk to him?

A I talked to him in person.

[49] Q After the defendant returned the work sheet and you talked to him and you added the information, could you tell us what you did with the work sheet as it was amended by you.

A I typed the form DD48 which is a Personnel Security Questionnaire. I typed that from the work sheet, filling in all the proper information. I then returned it to him asking him to check it for any errors or typographical errors. And I asked him to complete the confidential section, which is Section No. 3 and return it to me for mailing.

Q Calling your attention to Government's Exhibit No. 2, do you recognize that form?

A Yes.

Q And is that the form that you typed from the work sheet which Mr. Yermian gave to you?

A Yes, it is.

Q And is that your signature which appears at the bottom of the first page?

A Yes.

Q And in typing this form, Form 48, did you use any source of information other than the work sheet and the handwritten notes which you made during your conversation with Mr. Yermian?

[50] A No. That is the only information I used.

Q Calling your attention to Government's Exhibit No. 3, are you familiar with this document?

A Yes.

Q Is that your signature, again, on the first page?

A Yes.

Q Is that your signature on the last page?

A Yes.

Q Did you type this, the original document also?

A Yes. I typed it from the information from the first form, the DD48.

Q Where did you get the information to type this second form, Form 49?

A Most of the information I took from the DD48. However, they had requested additional information and I obtained that from Don.

Q Did you tell the defendant, Mr. Yermian, that you were preparing Form 49?

A Yes. I told him that I had received a letter from them and they had asked for the additional information.

Q Did you give the defendant any additional instructions as to how to complete Form 49?

[51] A No, I did not.

Q Did the defendant—When you were in the process of completing Form 49, did the defendant request that any of the information that was contained on Form 48 be changed so that Form 49 would be different than Form 48?

A Yes.

Q After typing Form 49, what did you do?

A I again returned it to him asking him to check it for errors, and asked that after he had done that, that if there were none to be corrected, that he complete again Section 3, which is a confidential section. I asked him to return it to me.

MR. DeWITT: Your Honor, could I approach the clerk? I have an additional exhibit.

THE COURT: All right.

MR. DeWITT: This will be Government's Exhibit No. 7.

THE CLERK: Plaintiff's 7 marked and placed before the witness. (Plaintiff's Exhibit 7 was marked for identification.)

BY MR. DeWITT:

Q Now, Miss Lane, do you recognize Government's Exhibit No. 7?

[52] A Yes.

Q Can you tell us what that is, please?

A This is a pre-addressed envelope which is used to mail the security clearances into the Defense Industrial Security office.

When the employee completes all of his forms, he brings them to me and in front of him, before me, is turned over and witnessed by me on the back of the form. There is a

place for a witness. And there is a place for him to sign and to date.

The form is then placed in this envelope with his fingerprints. He seals the form and signs it across the back and it is put into the mail.

MR. DeWITT: At this time I would move Government's Exhibits 1, 2, 3, 4 and 7 into evidence.

THE COURT: Any objection?

MR. ZARKY: No, your Honor.

THE COURT: 1, 2, 3, 4 and 7 in evidence. (Plaintiff's Exhibits 1, 2, 3, 4 and 7 were received in evidence.)

MR. DeWITT: I have no further questions of this witness.

THE COURT: Cross-examination?

[53] MR. ZARKY: One moment, your Honor. (Brief pause.)

CROSS-EXAMINATION

BY MR. ZARKY:

Q Miss Lane, about how large is Gulton?

A We have approximately 260 employees.

STIPULATION

It is hereby stipulated by and between the plaintiff, United States of America, the defendant, Esmail Yermian, and the defendant's attorney, Deputy Federal Public Defender Alan Zarky as follows:

"1. The defendant prepared the Work Sheet for Preparation of Personnel Security Questionnaire; the handwriting which appears on the Work Sheet is the defendant's [54] except for the words 'Square, s-q-u-a-r-e, D' in Block 10(c) and 'Houston, Texas' in Block 10(d).

"2. Plaintiff's Exhibit No. 1, the Work Sheet for Personnel Security Questionnaire, Plaintiff's Exhibit No. 2 (Personnel Security Questionnaire Form DD48) and Plaintiff's Exhibit No. 3 (Personnel Security Questionnaire Form DD49) are true and correct copies of the original documents; however, at the defendant's request, certain personnel information not relevant to the facts of this case, have been deleted from Plaintiff's Exhibit Nos. 1, 2 and 3.

"3. The handwriting in Part III and the signature in Part IV of the Personnel Security Questionnaire Form DD 48 is that of the defendant.

"4. The handwriting in Part III and the signature in Part IV of the Personnel Security Questionnaire Form DD49 is that of the defendant.

"5. Marilyn Smith, Secretary to the Regional Vice-President of the Square D Company, Los Angeles, California, is deemed to have been called as a witness and testified as follows: That she made a thorough search of the employment record of the Square D Corporation from the period of from June, 1971, through March, 1973, and was unable to find any record that the defendant was employed [55] there at that time or any time.

"6. Robert R. Williams, President of Bell Helicopter International, Fort Worth, Texas, is deemed to have been called as a witness and to have testified as follows:

(a) That the Personnel Department of Bell Helicopter International made a thorough search of its employment records for the period February, 1975, through March, 1979, and was unable to find any record that the defendant was employed there at that time or at any time;

(b) Bell Helicopter International had never had a facility in Houston, Texas.

"7. The defendant is the same Esmail Yermian referred to in the May 4, 1978, Judgment and Probation/Commitment Order."

This has been stipulated to by the government, the defendant himself, and his counsel.

As you have been previously instructed, as to those facts, you must deem that they have been conclusively proved.

Call your next witness.

MR. DeWITT: Your Honor, at this time, we would ask that Exhibit No. 5, the stipulation, be admitted into evidence.

TESTIMONY OF ESMAIL YERMIAN

ESMAIL YERMIAN, called as a witness on his own behalf, having been previously sworn, resumed the stand and testified further as follows:

THE CLERK: Please state your full name, spelling your last.

THE WITNESS: Esmail Yermian, Y-e-r-m-i-a-n.

[58] DIRECT EXAMINATION

BY MR. ZARKY:

Q What is your occupation?

A I am an engineer.

Q Were you employed at Gulton Industries?

A Yes, I was.

Q Please tell the jury what you did for Gulton Industries.

A I was involved with scheduling and manpower planning.

Q And was that scheduling and manpower planning involved in any particular projects?

A Yes. It involved design of power supplies.

Q Where are you now employed, Mr. Yermian?

A I am not employed at this time. I was fired from my job because of this case.

Q Was that your job at Gulton Industries?

A That is correct.

Q At some time did you file an application for employment with Gulton Industries?

A Yes, I did.

Q Mr. Yermian, did you make any false statement on that application?

A Yes, I did.

[59] Q What were those false statements, Mr. Yermian?

A They were with respect with my previous employment experience.

Q Can you please be more specific when you say with respect to—

A I had indicated in my employment application that I was employed in two companies which, indeed, I had not.

Q This employment application, that is not any of the forms which have been discussed or introduced into evidence; is it?

A No, it isn't.

Q Specifically, were those false statements that you had worked for certain companies that you hadn't?

A Yes.

Q Can you tell the jury what those companies were?

A I had indicated on my employment application that I had worked for Bell Helicopter and Square D and, indeed, I had not worked for those two companies.

Q Did you make any other false statements on that employment application?

A Yes, I did.

Q What was that false statement?

[60] A I had not indicated that I was arrested or convicted previously.

Q And had you been?

A Yes, I was.

Q What were you convicted of?

A Mail fraud.

Q What did that mean? What did you do that constituted mail fraud?

A I had collected unemployment insurance which I was not entitled to.

Q Mr. Yermian, this employment application, why did you make these false statements?

A I needed to get a job. My father was and is suffering from cancer and I was running very high medical bills.

MR. DeWITT: Objection.

THE COURT: The objection is sustained.

That will go out and the jury is admonished to disregard it as irrelevant.

BY MR. ZARKY:

Q Mr. Yermian, at the time you applied to Gulton Industries, were you employed?

A No, I was not.

Q Why were you not employed at that time?

[61] MR. DeWITT: Objection.

THE COURT: The objection is sustained.

BY MR. ZARKY:

Q Did you at some point, then, start to work with Gulton Industries?

A Yes, I did.

Q Sometime later—Excuse me, your Honor. May I get the exhibit list? (Brief pause.)

May Government's 1, 2 and 3 be placed before the witness, please.

THE CLERK: 1, 2, and 3 in evidence before the witness.

THE WITNESS: Okay.

BY MR. ZARKY:

Q Directing your attention to Government 1, it's a work sheet. Sometime did you fill out that work sheet?

A Yes, I did.

Q Did you make false statements on that work sheet?

A Yes, I did.

Q What were those false statements?

A Again with respect to my previous employment [62] record.

Q Were they the same false statements that you made on your employment application?

A Yes, that is correct.

Q Why did you make these false statements?

A I thought I was stuck with the information that I had already given to Gulton.

Q Mr. Yermian, when you filled out this work sheet, what did you believe the purpose of this work sheet was?

A My understanding was that this information was going to be used by Gulton and by Gulton only for the classification of their employee as to who would be working on what job.

Q At the time that you filled out this work sheet, did you know that the information on it would be sent to the Department of Defense?

A No, I did not.

Q Had anyone told you that it would be sent to the Department of Defense?

A No, they did not.

Q Did you believe it would be sent to any United States Government agency?

A No, they did not.

[63] Q Did you believe that it would be sent to any United States Government agency?

A No, I did not believe it.

Q Had you ever applied for a United States Department of Defense security clearance before this?

A No, I have not.

Q At this time, were you familiar with the procedures for getting a United States Department of Defense security clearance?

A No, I was not.

Q What, specifically, were you told when you were asked to fill out this form?

A I was told that this is a Personnel Security Questionnaire and I have to fill it out.

Q After you filled it out, what did you do with it?

A I returned it to Miss Ruby Lane.

Q And as you have heard her testify, did you discuss some of your answers with her?

A Yes, I did. I told her that I wasn't sure about some of the previous accuracies, about some of the dates, previous addresses and some of the dates and so on.

Q What happened next?

[64] A Miss Lane typed the information and returned it to me for signature.

Q What, if anything, did she tell you when she returned it to you for signature?

A She told me to look it over, see if there was any mistake. And I told her that I trusted her typing and I thought that the information that I had put on the work sheet would be the same.

Q What did you mean you trusted her typing?

A I thought it would be free of error. I told her that I trust her typing would be free of error.

Q Did you then fill out the Part III of that application?

A Yes, I did.

Q And in filling it out, did you make any false statements?

A Yes, I did.

Q Was this the same false statement that you had made on your employment application?

A Yes.

Q Why did you make that false statement?

A Again, I thought that I was stuck with the information that I had given them on my employment application; that it would have jeopardized my job anyway, [65] with Gulton.

Q Did you then sign the form?

A Yes, I did.

Q Before signing the form, did you look it over at all?

A No, I did not.

Q Did you even glance over it?

A Just quickly.

Q Before signing it, did you read over the entire form carefully?

A No, I did not.

Q Specifically, did you read over Part IV, the fine print in Part IV?

A No, I did not.

Q Why didn't you read over the entire form carefully, Mr. Yermian?

A At that time, my boss—I had to go to a meeting with my boss in a hurry. And he asked me to prepare something quickly for him. His secretary was paging me, so I just signed it and returned it to Miss Lane.

Q Were there any other reasons that you did not read it over carefully before signing it?

A I thought that the information that I had given on the work sheet would be the same.

[66] Q Did the form cover the same questions that the work sheet had covered?

A I don't know. I believe so.

Q Why don't you look at Government's 1 and 2 now.

A Yes. They covered the same questions.

Q And at the time you saw Government's Exhibit 2, DD Form 48, did you know that that form was going to be submitted to the Department of Defense?

A No, I did not.

Q Had anyone told you that it would?

A No one.

Q Did you notice before signing it the words "Department of Defense" in the upper left-hand corner of the first page?

A No, I did not.

Q Who did you think would be using that information?

A I thought that the information was going to be used by Gulton and Gulton only, for the classification, as I said before, of the people who would be working on what project. They would be classifying them as to who would be working on what project.

Q Now, at some later point, did Miss Lane discuss [67] with you Government's Exhibit 3, DD49?

A Yes, they did.

Q You said "they." I'm asking you now about Miss Lane.

A Yes, she did.

Q Did she request additional information from you?

A Yes, she did.

Q Did you give it to her?

A Yes, I did.

Q What happened next?

A Again, she typed it and she returned it to me for signature.

Q Did you again fill out Part III?

A Yes, I did.

Q Did you again sign it?

A Yes, I did.

Q Now, this time, before signing it, did you read it over carefully?

A No, I did not.

Q Tell the jury why you did not read over this form carefully this time before signing it.

A Because it looked the same in format and in content and I thought it would be the same thing. And [68] I had given her the information already. Since I had signed the previous one, so I signed this one.

Q Now, at the time that you signed Government's Exhibit 3, Form 49, did you know that this information would be sent to any agency of the United States Government?

A No, I did not.

Q When did you first learn that, in fact, the purpose of all these questions was for Department of Defense security classification?

A Sometime later when Miss Lane came to me and informed me that the security clearance had been—been denied. And she gave me a copy of it.

Q Sometime after that, did you talk to any agents of the Federal Bureau of Investigation?

A Yes, I did.

Q Did you discuss with them your previous employment and your convictions?

A Yes, I did.

Q Were you truthful with them about your previous employment and your convictions?

A Yes, I was.

Q Mr. Yermian, could you please explain to the jury how it is on the one hand you were truthful with the FBI but on these forms you were not truthful.

[69] A When the FBI agents came to my office, they identified themselves as FBI agents and government agents. And I did not want to lie to the government agents. I knew that they would and could verify the information that I was going to give them.

Whereas, in the case of the application or the Personnel Security Questionnaire, I thought it was for use by Gulton and Gulton only. I did not think that they would have either the resources or the inclination to verify this information.

MR. ZARKY: Nothing further, your Honor.

THE COURT: Cross-examination?

MR. DeWITT: One moment, please, your Honor. (Brief pause.)

CROSS-EXAMINATION

BY MR. DeWITT:

Q Mr. Yermian, isn't it a fact that someone explained to you that you were required to have a security clearance in order to work at Gulton?

A No, they did not.

Q Then why were you filling out these forms if no one explained to you that it was for security clearance?

[70] A Miss Lane came to me and handed over the applications to me and said this is for the work sheet. And she

said this is for personnel security—this is a Personnel Security Questionnaire and we have to fill it out.

Q Did you know that Gulton was a Department of Defense contractor?

A When I applied for my job at Gulton, I did not know.

Q Did you know that as a Department of Defense contractor you would have to have access to secret or classified information?

A I did not.

Q You stated that you completed Form 48 and Form 49 and that you signed those; is that correct?

A That is correct.

Q Calling your attention to the bottom of the first page where the information was typed in by Ruby Lane, did you read this material where it references the fact that you are required to have access to classified material?

A At the time when she returned it to me, no, I did not read it.

Q Calling your attention to Question No. 26—

A On which form?

[71] Q Form 48.

Is that your signature which appears there on Line 26?

A Yes, it is.

Q When you signed your name there, didn't you realize that you were granting permission to the Department of Defense to obtain copies of your medical history?

A No. I did not read that.

Q Isn't that what that says there?

A It does say that.

Q Calling your attention, now, to Form 49, Government's Exhibit No, 3, once again, you reviewed this document; is that correct?

A She returned it to me for signature and she told me to look at it to see if there was any error in it.

Q When you looked at it, you did not notice the words "Department of Defense" at the top of the form?

A I glanced at that form quickly and I did not read it carefully. I thought that the information that I had given her would be the same as the original application.

Q When you reviewed the document, did you notice the reference to the fact that you would have to have access [72] to classified material?

A No, I did not.

Q And again, calling your attention to Line 26 on Form 49, did you find that?

A Yes, I did.

Q When you signed it, didn't you realized that you were granting permission to the Department of Defense to release medical information?

A I did not read those statements. I just signed where it says "Signature of Employee."

Q Calling your attention, now, to Part IV.

A On which form, sir?

Q Form 49.

A Yes.

Q You signed this document indicating that you had read it; is that correct?

A Which page, now, sir?

A Page 5.

A Page 5. Again, I did not read any of this. I just looked at where it says "Signature of Employee," and signed it.

Q When Miss Lane returned the typed forms to you, isn't it a fact that she returned them with an envelope for mailing?

[73] A If she did, I don't recall. I do not recall that she ever gave me a—they ever gave me an envelope.

Q Do you have Government's Exhibit No. 7 there?

THE CLERK: Plaintiff's Exhibit 7 before the witness.

BY MR. DeWITT:

Q Have you ever seen this exhibit before?

A I am seeing it now. I do recall that Miss Lane put it in an envelope. I do not recall if it was this envelope or any other envelope.

Q When you say she put it in the envelope, what are you talking about, Form 48 or Form 49?

A I don't remember which one it was. She put it in an envelope.

Q On both occasions, did she put it in an envelope?

A On both occasions.

Q Isn't it a fact that she gave you the envelope and you put the form in the envelope?

A I don't recall this.

Q Isn't it a fact you had to sign the envelope before you mailed it?

A I did not mail any envelope, sir.

Q I am asking you if you would look at the [74] envelope, sir. What does the seal on the back say? Doesn't it indicate that you have to sign that envelope as you put the application inside?

A Again, sir, I returned the application to her and she put it in the envelope. I do not recall ever having received an envelope from her.

Q When she put it in the envelope, did you notice that the postage and fees were going to be paid by the Defense Logistics Agency?

A No. I did not, sir.

Q Did you notice that the envelope was to be mailed to the Defense Industrial Security Clearance Office?

A I did not know that.

MR. DeWITT: One moment, your Honor. (Brief pause.)

Q Isn't it a fact that Miss Lane came to you after you prepared the work sheet to discuss the application with you?

A Sometime later she came and she told me that this was the wrong form and that—

Q No. I am talking about the work sheet, the handwritten work sheet.

A Yes. Okay.

Q You completed that form and gave it to her; [75] is that correct?

A That's correct.

Q Before you saw anything else in typewritten form, she came to your office and she talked to you about that form; is that correct?

A I do not remember what the conversation was about.

Q But she did talk to you?

A I don't remember. I don't recall that, sir.

MR. DeWITT: One moment, your Honor. (Brief pause.)

Q Now, the basis for your conviction in 1978 for mail fraud was because you filled out fraudulent government forms; is that correct?

A The basis was that I had collected unemployment insurance which I was not entitled to.

Q In order to collect that unemployment insurance, you had to fill out certain forms; didn't you?

A Yes.

Q How many forms did you fill out in that case?

A I don't remember.

Q How many insurance claims did you claim?

A I don't remember.

Q Wasn't it, in fact, 17 employees that you [76] were claiming unemployment compensation for?

A It was more than one, but I do not remember exactly.

Q And to collect that unemployment insurance, didn't you have to fill out certain forms?

A Yes.

Q Weren't those government forms?

A Well, they were forms that you were required to fill out for requesting unemployment insurance.

MR. DeWITT: No further questions.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. ZARKY:

Q Mr. Yermian, you testified on direct that you did have a conversation with Miss Lane about information on the work sheet after you filled it out.

Is that the conversation you had with her in your office?

A The conversation after I filled out the work sheet?

Q After the work sheet.

A After the work sheet, I returned the application to her and I told her that I was not sure about [77] some of the dates and some of the addresses.

Q So you do remember that conversation?

A Yes, I do.

MR. ZARKY: Nothing further.

THE COURT: Recross?

MR. DeWITT: One moment, your Honor. (Brief pause.)

RECROSS EXAMINATION

BY MR. DeWITT:

Q When you had this conversation with Miss Lane, did you make any changes in the information as you had originally given it to her?

A I don't remember that, either. I just told her that I was not sure about some of the dates.

Q Did you change some of the addresses on the form?

A I don't remember that. I don't remember if I did or not. But I did tell her that I was not sure about some of these addresses and some of these dates.

Q So you were aware that she was asking you whether or not the information was complete; is that correct?

A Excuse me?

Q Strike the question.

[78] Did she come and talk to you?

A Yes.

Q You did discuss the form; is that correct?

A Well, when I handed the form to her I told her that I was not sure about some of these addresses and some of these dates.

Q And she came back to your office and you talked about that; is that correct?

A A second time?

Q At any time.

A After I handed over the form to her, we had a conversation that the essence of which was, I was not sure of some of these dates and some of these addresses, previous addresses.

MR. DeWITT: No further questions, your Honor.

THE COURT: Redirect?

MR. ZARKY: No, your Honor.

EXAMINATION BY THE COURT

THE COURT: Mr. Yermian, in the Exhibit 1, the work sheet—

THE WITNESS: Yes, sir.

THE COURT: Did you answer Question 16?

Was that your mark that was put on Question 16?

[79] THE WITNESS: On the work sheet?

THE COURT: On the work sheet.

THE WITNESS: Yes. That is my mark, sir.

THE COURT: I take it you read the question about being granted a security clearance previously when you answered "No"?

THE WITNESS: That is correct.

THE COURT: And the B question to that, if you had ever terminated employment while requesting a security clearance?

THE WITNESS: Yes. I did mark that, sir.

THE COURT: Did Miss Lane ask you to fill out Section 3 by yourself?

THE WITNESS: Section 3?

THE COURT: In the typewritten Exhibit 2.

THE WITNESS: Yes, she did.

THE COURT: And in that did you read the first paragraph there indicating that the information you are about to give in part III was privileged between you and the government?

THE WITNESS: No, I did not, sir. I only looked at the places where it had the appearance of a question and just went to answer the questions.

THE COURT: You did not read the instructions prior to that?

[80] THE WITNESS: No, sir, I did not.

THE COURT: You answered the Question 24, "Have you ever had a security clearance suspended, denied or revoked?"

THE WITNESS: Yes, I did.

THE COURT: And you answered that yourself?

THE WITNESS: Yes, I did.

THE COURT: That was not typed in by anybody; was it?

THE WITNESS: No, that is—I checked it "No."

THE COURT: And on Exhibits 2 and 3, that is on the DD48 and 49, did you sign those documents at the end?

THE WITNESS: What page, sir?

THE COURT: Exhibits 2 and 3.

THE WITNESS: Yes. I did sign those.

THE COURT: And in 49, did you fill out that document in your handwriting also?

THE WITNESS: Yes, that's right.

THE COURT: On both 48 and 49 did you read the certification for your signature?

THE WITNESS: No, I did not, sir.

THE COURT: Or the note, "Penalty for misrepresentation"?

[81] THE WITNESS: I did not, sir.

THE COURT: Did you see that?

THE WITNESS: Well, as I said, I went right down to the places where it says "Signature of Employee" and signed it. I did not—

THE COURT: You did not read anything on Part IV, none of the language in Part IV?

THE WITNESS: No, sir, I did not.

THE COURT: You didn't notice that as you were coming down and you got down to where it says "Signature of Employee"?

THE WITNESS: No, I did not.

THE COURT: On either 48 or 49?

THE WITNESS: No.

THE COURT: Anything further?

MR. ZARKY: No.

THE COURT: Step down, Mr. Yermian.

EXCERPT OF JURY INSTRUCTIONS

Each count of the indictment charges a violation of Section 1001 of Title 18, United States Code, which provides in part:

> "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and wilfully falsifies, conceals or covers up by any trick, scheme, or device, a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, . . ."

Shall be guilty of an offense against the laws of the United States.

Three essential elements are required to be proved in order to establish the offense charged in the indictment:

FIRST: That the defendant made and used, or caused to be made and used, a false writing or document in relation to a matter within the jurisdiction of a department or agency of the United States, as charged;

SECOND: That he did such act or acts with knowledge of the accused that the writing or document was false or fictitious and fraudulent in some material particular, as alleged;

THIRD: That the defendant knew or should have known that the information was to be submitted to a government agency;

FOURTH: That he did such act or acts knowingly and wilfully.

WORKSHEET FOR PREPARATION OF PERSONNEL SECURITY QUESTIONNAIRE, DD FORMS 48 or 49

DATE: 5-6-79

PART I

1. LAST NAME - FIRST NAME - MIDDLE NAME: YERMIAN ESMAIL —

2. SEX: MALE

3. ALIASES (AND ALL FORMER NAMES): NONE (Yes)

4. SOCIAL SECURITY NUMBER:

5. MONTH, DAY, YEAR OF BIRTH:

6. PLACE OF BIRTH:

7. SERVICE NUMBER:

INSTRUCTIONS TO EMPLOYEE: This is a worksheet to assist in preparation of the final Personnel Security Questionnaire. The final version of the Personnel Security Questionnaire contains entries for additional information which you must complete in private. Part II of this worksheet need not be completed by your employer. It will be completed by your employer on the final version. After you complete this worksheet, give it to your employer so that it can be used as a guide for completion of the final version.

TYPE OR PRINT ALL ANSWERS: If more space is required, attach additional sheets, identifying by corresponding block number. FORM WILL NOT BE ACCEPTED UNLESS COMPLETELY AND PROPERLY EXECUTED. Questions which do not apply shall be marked "None."

8. RELATIVES	DATE AND PLACE OF BIRTH	PRESENT ADDRESS	CITIZENSHIP
a. FATHER			
b. MOTHER (Full Maiden Name)			
c. SPOUSE (If all Maiden Name)			

9. RESIDENCES (List all from 18th birthday or during past 15 years, whichever is shorter. If under 18, list present and most recent addresses.)

a. FROM	b. TO	c. NUMBER AND STREET	d. CITY	e. STATE

10. EMPLOYMENT (List all from 18th birthday or during past 15 years, whichever is shorter. If under 18, list present and most recent employment.)

a. FROM	b. TO	c. EMPLOYER	d. PLACE
2/75	2/79	ZELL-IRAN CENTURY INDUSTRIAL Inc D	IRAN - Tehran, Iran LA, CALIF LA CALIF
3/73	2/75		
6/[illegible]	3/[illegible]		

11. LAST CIVILIAN SCHOOL

a. FROM	b. TO	c. NAME	d. PLACE
9/1973	2/1975	UNIVERSITY OF SO. CALIF	LOS ANGELES, CALIF

PART II (TO BE COMPLETED BY EMPLOYER)

TO:
Defense Industrial Security Clearance Office
Defense Supply Agency
Box 2499
Columbus, Ohio 43216

NAME AND ADDRESS OF EMPLOYER (If a subsidiary, include name of parent company)

JOB TITLE AND DESCRIPTION OF EMPLOYEE'S DUTIES WHICH REQUIRE ACCESS TO CLASSIFIED INFORMATION

[redacted]

CONTRACT NUMBER, WHEN APPLICABLE

SECURITY CLASSIFICATION OF MATERIALS OR INFORMATION EMPLOYEE WILL HAVE ACCESS TO

Plaintiff's Exhibit No. 1
Page 1 of 3

CLEARANCE REQUESTED IS: ☐ INTERIM ☐ UNDER PAR. 28I, ISM

IF SUBJECT IS AN IMMIGRANT ALIEN, HAS HE PRESENTED ALIEN REGISTRATION RECEIPT CARD (Form I-151)?

☐ YES ☐ NO

I CERTIFY THAT THE ENTRIES MADE BY ME ABOVE ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND ARE MADE IN GOOD FAITH.

SIGNATURE OF EMPLOYEE OR DESIGNATED REPRESENTATIVE

12. EDUCATION (Account for all civilian and military academics)

YEARS (Month if known) FROM	TO	NAME AND LOCATION OF SCHOOL	GRADUATE YES	GRADUATE NO	DEGREE
67	3/75	UNIVERSITY OF SO. CALIFORNIA LA, CALIF	✓		MBA
57	6/71	CALIFORNIA STATE UNIVERSITY LA, CALIF	✓		BS.

14. ORGANIZATIONAL MEMBERSHIP

LIST ALL ORGANIZATIONS EXCEPT LABOR UNIONS AND EXCEPT ORGANIZATIONS REFERRED TO IN ITEM 27 BELOW IN WHICH YOU HOLD OR HAVE HELD MEMBERSHIP. IF NONE, SO STATE.

NAME AND ADDRESS	TYPE	OFFICE HELD	FROM (Date)	TO (Date)

15. MILITARY SERVICE

a. COUNTRY	BRANCH OF SERVICE	SERVICE NUMBER	FROM (Date)	TO (Date)

ARE YOU A MEMBER OF A RESERVE COMPONENT? ☐ YES ☒ NO (If answer is "YES", furnish service, component and current status under Item 31, "Remarks".)

b. LOCAL DRAFT BOARD (United States) AND ADDRESS [redacted]

c. SELECTIVE SERVICE NO.

d. CLASSIFICATION

PREVIOUS CLEARANCE

HAVE YOU EVER BEEN PREVIOUSLY GRANTED A SECURITY CLEARANCE? (If answer is "YES", indicate level of clearance, when cated, by whom and where employed at that time under Item 31, "Remarks".) ☐ YES ☒ NO

HAVE YOU EVER TERMINATED EMPLOYMENT WHILE A REQUEST OR APPLICATION FOR A SECURITY CLEARANCE WAS PENDING? (If answer is "YES", furnish name and address of employer under "Remarks". If termination resulted from a reduction in force, so indicate. If furnish details under "Remarks". If you since have been granted a clearance by the Government, indicate under Item 31, "Remarks" e date, level of clearance and where employed.) ☐ YES [redacted]

17. OTHER RELATIVES

a. LIST CHILDREN, BROTHERS, SISTERS (16 years and older) AND FORMER SPOUSE(S).

RELATION	NAME IN FULL	ADDRESS (Enter "deceased" if no longer living)	PLACE AND DATE OF BIRTH	PRESENT CITIZENSHIP

b. LIST OTHER LIVING RELATIVES AND RELATIVES OF SPOUSE WHO ARE NOT UNITED STATES CITIZENS

18. FOREIGN COUNTRIES VISITED OR RESIDED IN

CITY AND COUNTRY	DATE LEFT U.S.	DATE RETURNED U.S.	PURPOSE AND TYPE OF VISA

19. LIST EACH FOREIGN GOVERNMENT, FIRM, CORPORATION OR PERSON FOR WHOM YOU ACT OR HAVE ACTED AS A REPRESENTATIVE, OFFICIAL OR EMPLOYEE IN THE PAST 5 YEARS. LIST ALL COMMUNIST GOVERNMENTS, FIRMS OR CORPORATIONS FOR WHOM YOU HAVE EVER ACTED IN SUCH CAPACITY. ATTACH A STATEMENT, AS REQUIRED BY PARAGRAPH 308, ISM, FULLY DESCRIBING EACH AFFILIATION. *(If none, so indicate.)*

20. REFERENCES *(Give five personal references, stating business address of all references, if known. Do not include relatives, former employers, or persons living outside the United States.)*

NAME	YEARS KNOWN	STREET AND NUMBER	CITY	STATE

21. REMARKS *(If additional space is needed, continue on plain paper.)*

FURTHER INSTRUCTIONS: DO NOT COMPLETE PARTS III OR IV AT THIS TIME. Return this partially completed form to your employer who will review it to assure all entries are complete and the form is properly filled in. After return, proceed with completion of Parts III and IV.

DSA FORM 787
JAN 68

DEPARTMENT OF D[illegible]NSE

PERSONNEL SECURITY QUESTI[illegible]NAIRE *(INDUSTRIAL)*

FORM APPROVED OMB NO. 2[illegible]R046

DATE: May 22, 1979

DD FORM 1 JAN 74 48

USE 1 JUL 69 EDITION UNTIL EXHAUSTED

PART I

1. LAST NAME — FIRST NAME — MIDDLE NAME: Yermian Esmail NMI

2. SEX: Male

3. ALIAS(ES) AND ALL FORMER NAME(S): (Don) Nickname

4. SOCIAL SECURITY NUMBER:

5. MONTH, DAY, YEAR OF BIRTH:

6. PLACE OF BIRTH:

7. SERVICE NUMBER:

INSTRUCTIONS TO EMPLOYEE: DO NOT FILL IN ANY PORTION OF THIS FORM UNLESS YOU ARE EMPLOYED AND ON THE PAYROLL OF THE EMPLOYER FROM WHOM YOU RECEIVE THIS FORM. This form is in four (4) parts. Part II must be completed by your employer before you complete the other parts. You must complete Part III in private. Before filling in any part, you should familiarize yourself with all questions. Do not sign this form without first reading the instructions in Part IV. TYPE OR PRINT ALL ANSWERS. If more space is required, attach additional sheets, identifying by corresponding block number. FORM WILL NOT BE ACCEPTED UNLESS COMPLETELY AND PROPERLY EXECUTED. Questions which do not apply shall be marked "None."

RECEIVED 29 JUL 11 AM 8:00 DEFENSE INDUSTRIAL SECURITY CLEARANCE OFFICE

8 RELATIVES	DATE AND PLACE OF BIRTH	PRESENT ADDRESS	CITIZENSHIP
a. FATHER			
b. MOTHER (Full Maiden Name)			
c. SPOUSE (Full Maiden Name)			

9 RESIDENCES (List all from 18th birthday or during past 15 years, whichever is shorter. If under 18, list present and most recent addresses.)

a. FROM	b. TO	c. NUMBER AND STREET	d. CITY	e. STATE

10 EMPLOYMENT (List all from 18th birthday or during past 15 years, whichever is shorter. If under 18, list present and most recent employment.)

a. FROM	b. TO	c. EMPLOYER	d. PLACE
3/79	Present	Gulton Industries, Inc.	13041 Cerise Ave.-Hawthorne, Ca.
2/75	3/79	Bell Helicopter Int'l.	Iran - Houston, Texas
3/73	2/75	Century Industrial	Los Angeles, Ca.
6/71	3/73	☐ D (Square D)	Los Angeles, Ca.

11 LAST CIVILIAN SCHOOL

a. FROM	b. TO	c. NAME	d. PLACE
1973	1975	University of So. Calif.	Los Angeles, Ca.

PART II (TO BE COMPLETED BY EMPLOYER) 06569

TO: Defense Industrial Security Clearance Office, Defense Supply Agency, Box 2499, Columbus, Ohio 43216

NAME AND ADDRESS OF EMPLOYER (If a subsidiary, include name of parent company): Gulton Industries, Inc., Engineered Magnetics Div., 13041 Cerise Ave.-Hawthorne, Ca. 90250

9 TITLE AND DESCRIPTION OF EMPLOYEE'S DUTIES WHICH REQUIRE ACCESS TO CLASSIFIED INFORMATION: Sr Engineer - Need-to-know based on requiring access to classified material in order to perform job duties.

CONTRACT NUMBER, WHEN APPLICABLE: N/A

SECURITY CLASSIFICATION OF MATERIALS OR INFORMATION EMPLOYEE WILL HAVE ACCESS TO: SECRET

I CERTIFY THAT THE ENTRIES MADE BY ME ABOVE ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND ARE MADE IN GOOD FAITH.

SIGNATURE OF EMPLOYER OR DESIGNATED REPRESENTATIVE: [signature]

Plaintiff's Exhibit No. 2
Page 1 of 5

PART I (Continued)

12 EDUCATION (Account for all civilian and military academic)

YEARS (Month if known) FROM	TO	NAME AND LOCATION OF SCHOOL	GRADUATE YES	GRADUATE NO	DEGREE
1973	2/75	University of So. Calif.-Los Angeles, Ca.	X		MS
1967	6/71	California State University-Los Angeles, Ca.	X		BS

14 ORGANIZATIONAL MEMBERSHIP

LIST ALL ORGANIZATIONS EXCEPT LABOR UNIONS AND EXCEPT ORGANIZATIONS REFERRED TO IN ITEM 27 BELOW IN WHICH YOU HOLD OR HAVE HELD MEMBERSHIP. IF NONE, SO STATE.

NAME AND ADDRESS	TYPE	OFFICE HELD	FROM (Date)	TO (Date)

15 MILITARY SERVICE

a COUNTRY	BRANCH OF SERVICE	SERVICE NUMBER	FROM (Date)	TO (Date)

b. ARE YOU A MEMBER OF A RESERVE COMPONENT? ☐ YES ☒ NO (If answer is "YES", furnish service, component and current status under Item 21, "Remarks".)

c. LOCAL DRAFT BOARD (Local State) AND ADDRESS	d. SELECTIVE SERVICE NO.	e. CLASSIFICATION

16 PREVIOUS CLEARANCE

a. HAVE YOU EVER BEEN PREVIOUSLY GRANTED A SECURITY CLEARANCE? (If answer is "YES", indicate level of clearance, when granted, by whom and where employed at that time under Item 21, "Remarks".) ☐ YES ☒ NO

b. HAVE YOU EVER TERMINATED EMPLOYMENT WHILE A REQUEST OR APPLICATION FOR A SECURITY CLEARANCE WAS PENDING? (If answer is "YES", furnish name and address of employer under "Remarks". If termination resulted from a reduction in force, so indicate and furnish details under "Remarks". If you since have been granted a clearance by the Government, indicate under Item 21, "Remarks" the date, level of clearance and where employed.) ☐ YES ☒ NO

8 LIST CHILDREN, BROTHERS, SISTERS, (if deceased, also) AND FORMER SPOUSE(S)

RELATION	NAME IN FULL	ADDRESS (Enter "deceased" if no longer living)	PLACE AND DATE OF BIRTH	PRESENT CITIZENSHIP

9 LIST OTHER LIVING RELATIVES AND RELATIVES OF SPOUSE WHO ARE NOT UNITED STATES CITIZENS

10 FOREIGN COUNTRIES VISITED OR RESIDED IN

CITY AND COUNTRY	DATE LEFT U.S.	DATE RETURNED U.S.	PURPOSE AND TYPE OF VISA
Paris-France-London, England	12/71	1/72	Visit-Tourist
Tehran, Iran	6/71	3/79	During this period of employment by Bell I traveled intermittently between Iran and the United States on company business.

19. LIST EACH FOREIGN GOVERNMENT, FIRM, CORPORATION OR PERSON FOR WHOM YOU ACT OR HAVE ACTED AS A REPRESENTATIVE, OFFICIAL OR EMPLOYEE IN THE PAST 5 YEARS. LIST ALL COMMUNIST GOVERNMENTS, FIRMS OR CORPORATIONS FOR WHOM YOU HAVE EVER ACTED IN SUCH CAPACITY. ATTACH A STATEMENT, AS REQUIRED BY PARAGRAPH 38K, FPM, FULLY DESCRIBING EACH AFFILIATION. *(If none, so indicate.)*

None

20. REFERENCES *(Give five personal references, giving business address of all references, if known. Do not include relatives, former employers, or persons living outside the United States.)*

NAME	YEARS KNOWN	STREET AND NUMBER	CITY	STATE

21. REMARKS *(If additional space is needed, continue on plain paper.)*

FURTHER INSTRUCTIONS: DO NOT COMPLETE PARTS III OR IV AT THIS TIME. Return this partially completed form to your employer who will review it to assure all entries are complete and the form is properly filled in. After review, proceed with completion of Parts III and IV.

PART III

Complete the items below in private. The answers or statements in this part are privileged information between you and the Government. You should enter in item 38 any information relating to your answers which might require further explanation, or any additional information which may have a bearing on your security clearance.

32 HAVE YOU EVER BEEN ARRESTED, CHARGED OR HELD BY ANY LAW ENFORCEMENT AUTHORITIES FOR ANY VIOLATION OF ANY LAW, REGULATION OR ORDINANCE? INCLUDE ALL COURT-MARTIAL. DO NOT INCLUDE ANYTHING THAT HAPPENED BEFORE YOUR 16TH BIRTHDAY. DO NOT INCLUDE TRAFFIC VIOLATIONS FOR WHICH THE ONLY PENALTY IMPOSED WAS A FINE OF $25.00 OR LESS. ALL OTHER CHARGES MUST BE INCLUDED EVEN IF THEY WERE DISMISSED.

☑ YES ☐ NO IF "YES" GIVE DATE AND PLACE, CHARGE, AND DISPOSITION

unpaid parking tickets
Alhambra, California - 1972
fined $105.00

33 WHAT TYPE OF DISCHARGE DID YOU RECEIVE, IF ANY, FROM MILITARY SERVICE?
N/A

34 HAVE YOU EVER HAD A SECURITY CLEARANCE SUSPENDED, DENIED, OR REVOKED? (If answer is "YES", indicate level of clearance, when suspended, denied or revoked, by whom and where employed under Item 28, "Remarks". If you since have been granted a clearance by the government, so indicate under Item 34, "Remarks", the date, level of clearance and agency which restored the clearance.)
☐ YES ☑ NO

35

		YES	NO
a	DO YOU HAVE A HISTORY OF MENTAL OR NERVOUS DISORDERS?		✓
b	ARE YOU NOW OR HAVE YOU EVER BEEN ADDICTED TO THE USE OF HABIT FORMING DRUGS SUCH AS NARCOTICS OR BARBITURATES?		✓
c	ARE YOU NOW OR HAVE YOU EVER BEEN A CHRONIC USER TO EXCESS OF ALCOHOLIC BEVERAGES?		✓

(If answer to any of the above is "YES", explain. Give names and addresses of hospitals, clinics, sanatoriums, and physicians who have examined or treated you for each condition.)

36 AUTHORITY TO RELEASE MEDICAL INFORMATION

I HEREBY GRANT PERMISSION TO THE DEPARTMENT OF DEFENSE TO OBTAIN AND REVIEW COPIES OF MY MEDICAL AND INSTITUTIONAL RECORDS RELATING TO CONDITIONS LISTED IN ITEM 35 AND TO QUESTION THOSE WHO HAVE EXAMINED OR TREATED ME THEREFOR

SIGNATURE OF EMPLOYEE: Ismail Yasmani DATE: 7/6/79

37 ORGANIZATIONAL MEMBERSHIP

		YES	NO
a	ARE YOU NOW, OR HAVE YOU EVER BEEN A MEMBER OF THE COMMUNIST PARTY, U.S.A., THE COMMUNIST POLITICAL ASSOCIATION, THE YOUNG COMMUNIST LEAGUE, OR ANY COMMUNIST ORGANIZATION?		✓
b	ARE YOU NOW OR HAVE YOU EVER BEEN A MEMBER OF ANY FOREIGN OR DOMESTIC ORGANIZATION, ASSOCIATION, MOVEMENT, GROUP OR COMBINATION OF PERSONS WHICH IS TOTALITARIAN, FASCIST, COMMUNIST OR SUBVERSIVE, OR WHICH HAS ADOPTED, OR SHOWS A POLICY OF ADVOCATING OR APPROVING THE COMMISSION OF ACTS OF FORCE OR VIOLENCE TO DENY OTHER PERSONS THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES, OR WHICH SEEKS TO ALTER THE FORM OF GOVERNMENT OF THE UNITED STATES BY UNCONSTITUTIONAL MEANS?		✓

IF YOUR ANSWER TO EITHER OF THE ABOVE QUESTIONS IS "YES", LIST IN ITEM 38, THE NAMES OF ALL SUCH ORGANIZATIONS, ASSOCIATIONS, MOVEMENTS, GROUPS OR COMBINATION OF PERSONS, AND DATES OF MEMBERSHIP. GIVE COMPLETE DETAILS OF YOUR ACTIVITIES THEREIN AND MAKE ANY EXPLANATION YOU DESIRE REGARDING YOUR MEMBERSHIP OR ACTIVITIES

38 REMARKS (Use the space provided below and attach additional sheets, if necessary.)

PART IV

IMPORTANT NOTICE. Your signature on the following certification must be witnessed; the witness may be an employee of your firm. Prior to affixing your signature to the form, remove all carbons, fold the form so that the witness to your signature will not see any portion of Part III of the completed Personnel Security Questionnaire. Sign and date the form in the presence of the witness. Have the witness affix his signature and his address to the appropriate blocks on the form.

NOTE. PENALTY FOR MISREPRESENTATION - *Failure to answer all questions, or any misrepresentation (by omission or concealment, or by misleading, false, or partial answers) may serve as a basis for denial of clearance for access to classified Department of Defense information. In addition, Title 18, United States Code 1001, makes it a criminal offense, punishable by a maximum of 5 years imprisonment, $10,000 fine, or both, knowingly and willfully to make a false statement or representation to any Department or Agency of the United States as to any matter within the jurisdiction of any Department or Agency of the United States.*

This includes any statement knowingly and willfully made by employer or employee herein which is knowingly incorrect, incomplete or misleading in any important particular - Title 18 United States Code 911 states "whoever falsely and willfully represents himself to be a citizen of the United States shall be fined not more than $1,000 or imprisoned not more than three years, or both".

CERTIFICATION

WARNING. Read every sentence of the Certification before signing. I certify that my above answers are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I certify that I know that any misrepresentation or false statement made by me herein may subject me to prosecution under Section 1001 of the United States Criminal Code, with penalties up to five (5) years imprisonment and $10,000 fines, and provide a basis for denial of security clearance. I certify that I have read and understand each sentence of this Certification.

SIGNATURE OF WITNESS	SIGNATURE OF EMPLOYEE	DATE OF SIGNATURE
[signature]	[signature]	7/6/79
ESS OF WITNESS (City, County, State) 830 KINGSBURY A, CALIF 91704		

INSTRUCTIONS TO EMPLOYEE UPON COMPLETION OF ABOVE

ow that the form is signed and witnessed, place it in the pre-addressed envelope furnished, (DSA Form 703), together with he completed FD Form 258 (Fingerprint Card), seal the envelope, sign across the envelope flap on the line provided, and 'fix the date of signature. Deliver the sealed envelope to your employer immediately.

DEPARTMENT OF DEFENSE
PERSONNEL SECURITY QUESTIONNAIRE (INDUSTRIAL) (Multiple Purpose)

FORM APPROVED OMB NO 22-R003

DATE: August 1, 1979

DD FORM 1 FEB 74 49 — PART I

1. LAST NAME - FIRST NAME - MIDDLE NAME: Yermian Esmail NMN

SEX: Male

2. ALIASES(S) AND ALL FORMER NAME(S): Don (Nickname)

4. SOCIAL SECURITY NUMBER:

5. MONTH, DAY, YEAR OF BIRTH:

6. PLACE OF BIRTH:

7. SERVICE NUMBER:

8. RELATIVES	DATE AND PLACE OF BIRTH	PRESENT ADDRESS	CITIZENSHIP
a. FATHER			
b. MOTHER (Full Maiden Name)			
c. SPOUSE (Full Maiden Name)			

9. RESIDENCES (List all from 18th birthday or during past 15 years, whichever is shorter. If under 18, list present and most recent addresses.)

a. FROM	b. TO	c. NUMBER AND STREET	d. CITY	e. STATE

10. EMPLOYMENT (List all from 18th birthday or during past 15 years, whichever is shorter. If under 18, list present and most recent employment)

a. FROM	b. TO	c. EMPLOYER	d. PLACE
3/79	Present	Gulton Industries, Inc.	1?41 Cerise Ave.-Hawthorne, Calif.
2/75	3/79	Bell Helicopter Int'l.	Iran-Houston, Texas
3/73	2/75	Century Industrial	Los Angeles, Ca.
6/71	3/73	☐ D (Square D)	Los Angeles, Ca.
6/67	6/71	Student/California State	University-Los Angeles, Ca.

11. LAST CIVILIAN SCHOOL

a. FROM	b. TO	c. NAME	d. PLACE
9/73	2/75	University of Southern	Calif.-Los Angeles, Ca.

PART II (TO BE COMPLETED BY EMPLOYER) 06509 Comm

TO:
Defense Industrial Security Clearance Office
Defense Supply Agency
Box 2499
Columbus, Ohio 43216

NAME AND ADDRESS OF EMPLOYER (If a subsidiary, include name of parent company)
Gulton Industries, Inc.
Engineered Magnetics Division
13041 Cerise Ave.-Hawthorne, Ca. 90250

JOB TITLE AND DESCRIPTION OF EMPLOYEE'S DUTIES WHICH REQUIRE ACCESS TO CLASSIFIED INFORMATION
Sr Engineer - Need-to-know based on requiring access to classified material in order to perform job duties.

CONTRACT NUMBER, WHEN APPLICABLE: N/A

SECURITY CLASSIFICATION OF MATERIALS OR INFORMATION EMPLOYEE WILL HAVE ACCESS TO: SECRET

IF SUBJECT IS AN IMMIGRANT ALIEN, HAS HE PRESENTED ALIEN REGISTRATION RECEIPT CARD (Form I-151)? ☒ YES ☐ NO — 79298 0375

I CERTIFY THAT THE ENTRIES MADE BY ME ABOVE ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND ARE MADE IN GOOD FAITH.

SIGNATURE OF EMPLOYER OR DESIGNATED REPRESENTATIVE: Ruby J. Lane

Plaintiff's Exhibit No. 3
Page 1 of 5

12 EDUCATION (Account for all civilian schools and military academies)

YEARS (Month if known) FROM	TO	NAME AND LOCATION OF SCHOOL	GRADUATE YES	GRADUATE NO	DEGREE
9/73	2/75	University of So. Calif.-Los Angeles, Ca.	x		MBA
6/67	6/71	California State Univer.-Los Angeles, Ca.	X		BS

LIST ALL ORGANIZATIONS EXCEPT LABOR UNIONS AND EXCEPT ORGANIZATIONS REFERRED TO IN ITEM 27 BELOW IN WHICH YOU HOLD OR HAVE HELD MEMBERSHIP. IF NONE, SO STATE.

NAME AND ADDRESS	TYPE	OFFICE HELD	FROM (Date)	TO (Date)

13 MILITARY SERVICE

a. COUNTRY	BRANCH OF SERVICE	SERVICE NUMBER	FROM (Date)	TO (Date)

ARE YOU A MEMBER OF A RESERVE COMPONENT? ☐ YES ☒ NO (If answer is "YES", furnish service, component and current status under Item 21, "Remarks".)

c. LOCAL DRAFT BOARD (United States) AND ADDRESS	d. SELECTIVE SERVICE NO.	e. CLASSIFICATION

PREVIOUS CLEARANCE

HAVE YOU EVER BEEN PREVIOUSLY GRANTED A SECURITY CLEARANCE? (If answer is "YES", indicate level of clearance, when granted, by whom and where employed at that time under Item 21, "Remarks".) ☐ YES ☒ NO

HAVE YOU EVER TERMINATED EMPLOYMENT WITH THE U.S. GOVERNMENT . . . SECURITY CLEARANCE WAS PENDING? (If answer is "YES", furnish and furnish details under "Re the date, level of clearance a ... ted from a reduction in force, so indicate ni, indicate under Item 21, "Remarks" ☐ YES ☐ NO

OTHER RELATIVES

a. LIST CHILDREN, BROTHERS, SISTERS (16 years and older) AND FORMER SPOUSE(S).

RELATION	NAME IN FULL	ADDRESS (Enter "deceased" if no longer living)	PLACE AND DATE OF BIRTH	PRESENT CITIZENSHIP

b. LIST OTHER LIVING RELATIVES AND RELATIVES OF SPOUSE WHO ARE NOT UNITED STATES CITIZENS.

18. FOREIGN COUNTRIES VISITED OR RESIDED IN

CITY AND COUNTRY	DATE LEFT U.S.	DATE RETURNED U. S.	PURPOSE AND TYPE OF VISA
Paris, France-London, England	6/71	8/71	Visit-Tourist
Tehran, Iran	6/71	3/79	During this period of employment by Bell I traveled intermittently between Iran and the U.S. on company business.

19. LIST EACH FOREIGN GOVERNMENT, FIRM, CORPORATION OR PERSON FOR WHOM YOU ACT OR HAVE ACTED AS A REPRESENTATIVE, OFFICIAL OR EMPLOYEE IN THE PAST 5 YEARS. LIST ALL COMMUNIST GOVERNMENTS, FIRMS OR CORPORATIONS FOR WHOM YOU HAVE EVER ACTED IN SUCH CAPACITY. ATTACH A STATEMENT, AS REQUIRED BY PARAGRAPH 20b, 18M, FULLY DESCRIBING EACH AFFILIATION. (If none, so indicate.)

None

20. REFERENCES (Give five personal references, stating business address of all references, if known. Do not include relatives, former employers, or persons living outside the United States.)

NAME	YEARS KNOWN	STREET AND NUMBER	CITY	STATE

21. REMARKS (If additional space is needed, continue on plain paper.)

#10. Employment

FURTHER INSTRUCTIONS: DO NOT COMPLETE PARTS III OR IV AT THIS TIME. Return this partially completed form to your employer who will review it to assure all entries are complete and the form is properly filled in. After return, proceed with completion of Parts III and IV.

PART III

Complete the items below in private. The answers or statements in this Part are privileged information between you and the Government. You should enter in Item 28 any information relating to your answers which might require further explanation, or any additional information which may have a bearing on your security clearance.

22. HAVE YOU EVER BEEN ARRESTED, CHARGED, OR HELD BY ANY LAW ENFORCEMENT AUTHORITIES FOR ANY VIOLATION OF ANY LAW, REGULATION OR ORDINANCE? INCLUDE ALL COURTS-MARTIAL. DO NOT INCLUDE ANYTHING THAT HAPPENED BEFORE YOUR 16TH BIRTHDAY. DO NOT INCLUDE TRAFFIC VIOLATIONS FOR WHICH THE ONLY PENALTY IMPOSED WAS A FINE OF $25.00 OR LESS. ALL OTHER CHARGES MUST BE INCLUDED EVEN IF THEY WERE DISMISSED.

☐ YES ☐ NO IF "YES", GIVE DATE AND PLACE, CHARGE, AND DISPOSITION:

UNPAID TRAFFIC/PARKING TICKETS
FINED $105
ALHAMBRA, CALIFORNIA - 1972

23. WHAT TYPE OF DISCHARGE DID YOU RECEIVE, IF ANY, FROM MILITARY SERVICE?

N/A

24. HAVE YOU EVER HAD A SECURITY CLEARANCE SUSPENDED, DENIED, OR REVOKED? *(If answer is "YES", indicate level of clearance, when suspended, denied or revoked, by whom and where employed under Item 28, "Remarks". If you since have been granted a clearance by the government, indicate under Item 28, "Remarks", the date, level of clearance and activity which restored the clearance.)*

☐ YES ☑ NO

25	YES	NO
a. DO YOU HAVE A HISTORY OF MENTAL OR NERVOUS DISORDERS?		✓
b. ARE YOU NOW OR HAVE YOU EVER BEEN ADDICTED TO THE USE OF HABIT FORMING DRUGS SUCH AS NARCOTICS OR BARBITURATES?		✓
c. ARE YOU NOW OR HAVE YOU EVER BEEN A CHRONIC USER TO EXCESS OF ALCOHOLIC BEVERAGES?		✓

(If answer to any of the above is "YES", explain. Give names and addresses of hospitals, clinics, sanitoriums, and physicians who have examined or treated you for such conditions.)

26. AUTHORITY TO RELEASE MEDICAL INFORMATION

I HEREBY GRANT PERMISSION TO THE DEPARTMENT OF DEFENSE TO OBTAIN AND REVIEW COPIES OF MY MEDICAL AND INSTITUTIONAL RECORDS RELATING TO CONDITIONS LISTED IN ITEM 25 AND TO QUESTION THOSE WHO HAVE EXAMINED OR TREATED ME THEREFOR

SIGNATURE OF EMPLOYEE: E Germaine. DATE:

27. ORGANIZATIONAL MEMBERSHIP	YES	NO
a. ARE YOU NOW OR HAVE YOU EVER BEEN A MEMBER OF THE COMMUNIST PARTY U.S.A., THE COMMUNIST POLITICAL ASSOCIATION, THE YOUNG COMMUNIST LEAGUE, OR ANY COMMUNIST ORGANIZATION?		✓
b. ARE YOU NOW OR HAVE YOU EVER BEEN A MEMBER OF ANY FOREIGN OR DOMESTIC ORGANIZATION, ASSOCIATION, MOVEMENT, GROUP, OR COMBINATION OF PERSONS WHICH IS TOTALITARIAN, FASCIST, COMMUNISTIC, OR SUBVERSIVE, OR WHICH HAS ADOPTED, OR SHOWS A POLICY OF ADVOCATING OR APPROVING THE COMMISSION OF ACTS OF FORCE OR VIOLENCE TO DENY OTHER PERSONS THEIR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES OR WHICH SEEKS TO ALTER THE FORM OF GOVERNMENT OF THE UNITED STATES BY UNCONSTITUTIONAL MEANS?		✓

IF YOUR ANSWER TO EITHER OF THE ABOVE QUESTIONS IS "YES", LIST IN ITEM 28 THE NAMES OF ALL SUCH ORGANIZATIONS, ASSOCIATIONS, MOVEMENTS, GROUPS OR COMBINATION OF PERSONS AND DATES OF MEMBERSHIP. GIVE COMPLETE DETAILS OF YOUR ACTIVITIES THEREIN AND MAKE ANY EXPLANATION YOU DESIRE REGARDING YOUR MEMBERSHIP OR ACTIVITIES

28. REMARKS *(Use the space provided below and attach additional sheets, if necessary.)*

(COMPLETE PART IV ON REVERSE SIDE OF ORIGINAL COPY)

PART IV

IMPORTANT NOTICE: Your signature on the following certification must be witnessed, the witness may be an employee of your firm. Prior to affixing your signature to the form, remove all carbons, fold the form so that the witness to your signature will not see any portion of Part III of the completed Personnel Security Questionnaire. Sign and date the form in the presence of the witness. Have the witness affix his signature and his address to the appropriate blocks on the form.

NOTE: PENALTY FOR MISREPRESENTATION - Failure to answer all questions, or any misrepresentation (by omission or concealment, or by misleading, false, or partial answers) may serve as a basis for denial of clearance for access to classified Department of Defense information. In addition, Title 18, United States Code 1001, makes it a criminal offense, punishable by a maximum of 5 years imprisonment, $10,000 fine, or both, knowingly and willfully to make a false statement or representation to any Department or Agency of the United States as to any matter within the jurisdiction of any Department or Agency of the United States.

This includes any statement knowingly and willfully made by employer or employee herein which is knowingly incorrect, incomplete or misleading in any important particular - Title 18 United States Code 911 states "whoever falsely and willfully represents himself to be a citizen of the United States shall be fined not more than $1,000 or imprisoned not more than three years, or both".

CERTIFICATION

WARNING: Read every sentence of the Certification before signing. I certify that my above answers are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I certify that I know that any misrepresentation or false statement made by me herein may subject me to prosecution under Section 1001 of the United States Criminal Code, with penalties up to five (5) years imprisonment and $10,000 fine, and provide a basis for denial of security clearance. I certify that I have read and understand each sentence of this Certification.

SIGNATURE OF WITNESS	SIGNATURE OF EMPLOYEE	DATE OF SIGNATURE
Ruby J. Lange	E Alexander	8/24/79
ADDRESS OF WITNESS (City, County, State) Los Angeles, L.A. Ca.		

INSTRUCTIONS TO EMPLOYEE UPON COMPLETION OF ABOVE

Now that the form is signed and witnessed, place it in the pre-addressed envelope furnished, (DSA Form 703), together with the completed FD Form 258 (Fingerprint Card), seal the envelope, sign across the envelope flap on the line provided, and affix the date of signature. Deliver the sealed envelope to your employer immediately.

Instructions for Completion of
DD Form 48 or DD Form 49

You must follow these instructions carefully to insure rapid processing of *your* security clearance. Failure to do so will delay your clearance.

A worksheet is available from your employer to assist in preparing a draft of the entries that will be inserted in Part I of the DD Form 48 or DD Form 49. These instructions pertain to the worksheet as well as the final form.

Parts I and II of the final form should be completed prior to your completion of Parts III and IV. If they are not, return the form to your employer before proceeding to Part III.

Instructions that follow correspond to the identically numbered entry on the form. For example, instruction number 1, Name, explains how to complete entry number one on the form.

1. Name. Give your full name to include last, first, and middle name in that order. Names should agree with military or civilian employment records; if not, explain in nonprivileged "Remarks" item (#21 on DD Form 48 or 49) or on a separate sheet. If no middle name, or initial, use "(NMI)." If initial only, insert the appropriate initial followed by "(IO)." If you are an immigrant alien or a naturalized U.S. citizen born in an Oriental or Arabic country, write your name in English and add the equivalent Japanese, Chinese, or Korean characters (ideographs) or the Arabic script, as appropriate.

2. Sex. Self-explanatory.

3. Alias(es) or other name(s) by which known. List all other names by which known to include nicknames, aliases, and name changes. This means all names under which you have been known to employers, associates, or others. If known by middle name or initials only, so indicate. Nicknames derived from given or surnames should not be listed, e.g., "Joe" if your name is "Joseph," "Smitty" if your name is Smith. If known by any last name other than listed in item 1, so indicate. Married females should list maiden names, e.g., Mary Ann Jones and names acquired through

marriage, e.g., Mary Ann Smith, Mary Jones Smith, Mrs. Robert L. Smith. When listing "alias," "Former legal name," "nicknames," "maiden name," designate which of these it is. If none of the above apply to you, insert the word "None."

4. Social Security Number. Insert complete Social Security Number. DO NOT INVERT NUMBERS. Copy *exactly* as on your Social Security Card.

5. Date of Birth. Spell out or abbreviate birthdate, e.g. 2 June 1924. Do not reflect birthdate as 2-6-24.

6. Place of Birth. If American born, indicate city, county, and State. If foreign born, indicate town, village, city, or appropriate political subdivision and country. List in both English and the language of the country concerned. If known, indicate place birth certificate is recorded in "Remarks" item.

7. Service Number. Insert complete military service number. DO NOT INVERT NUMBERS.

8. Relatives. Give complete information on spouse and parents. Insert maiden name for wife and mother in space provided. If wife and/or mother were previously married, provide the name acquired by previous marriage in item 21, "Remarks." Give complete information concerning date and place of birth as required. Addresses must include street and number, city, county (if born in the U.S.) and State. If born in another country than the U.S., include street and number, city and country. If Germany indicate whether East or West.[1]

9. Residence. List all places of residence (not employment) during the last 15 years in chronological order to include instructions required to locate the rural or RFD residence. Instructions should be so complete that a stranger could find the location. Use specific directions as required. For example: Rural Route No. 4, South side of Turner Road, proceed 1½ miles West on U.S. 191, 3 miles South of Memphis, Tennessee. If space is insufficient, use an additional sheet. Schematic or freehand drawings may be help-

[1] East Germany is German Democratic Republic (GDR) (including the Soviet Sector of Berlin). West Germany is Federal Republic of Germany (including the non-Soviet Sectors of Berlin.)

ful. Addresses while in the military service, not permanent addresses, must be shown. If the residence was located on a military installation, indicate the complete onbase residence, to include unit and station. If residence was offbase, indicate the complete address (i.e., street and number, city, and State). When any metropolitan address is given (New York, Chicago, Los Angeles, etc.), the borough or subdivision in which located must be shown. If residence was in a foreign country, see instruction 18.

CAUTION: Military addresses must be shown.

CAUTION: Your forms will be rejected if you fail to show month and year of each residence and periods of time unaccounted for on the PSQ. If unknown, so indicate.

(While advancing with the Armies in combat, addresses are not required.)

10. Employment. List all periods of Government employment and each period of employment during the 15-year period immediately preceding the date of accomplishment of the form or from the date of your eighteenth (18th) birthday, whichever is the shorter period. Include complete names, street, street numbers, city and State. Include employment, parttime, and school vacations employment, self-employment and unemployment, to include position held (e.g., clerk, accountant, laborer, electrician, etc.). The month and year of beginning and ending of each period must be shown. Foreign names and addresses should be in English and the foreign language concerned; if Asiatic, the ideographs (characters) will be shown. Do not list military service or education under this item. List all employment in chronological order, beginning with your present employment. For a director of a company who is also employed on a full or part-time basis by one or more other companies, his employment as a director of the company submitting his clearance application should appear at the beginning of the list. (Note: For purposes of Industrial Security, a director shall always be considered as an employee of the company.) If self-employed, or unemployed during any period, list in "Remarks" or on separate sheet, the complete names and addresses of individuals who can verify periods of self-employment and/or unemployment, and the complete name

and address of the business if you were self-employed. Fully explain reason for period(s) of unemployment in excess of four months. If any employment was in a large metropolitan city (e.g., New York, Chicago, Los Angeles, etc.), indicate the borough or subdivision. If employed by a large manufacturing concern such as Chrysler Corp. or General Motors Corp., give the name of the specific plant or division and its address.

CAUTION: Failure to account for periods of unemployment or self-employment will delay processing of your clearance. Be sure to give name and address of person or persons who could verify period or periods of unemployment or self-employment. If you have been unemployed indicate reason, i.e., lay-off, school, pregnant, etc. If you were unemployed as a result of hospitalization or medical care indicate the reason for such hospitalization or medical care; i.e., surgery, tuberculosis (TB), nervous breakdown, broken limb, etc.

11. Last Civilian School. List last civilian school attended. See instruction 12 for additional guidance.

12. Education. List all other schools attended. Do not list service schools attended while a member of the U.S. Armed Forces. Grammar schools will be listed only if the grammar school was the last school attended. Indicate whether graduated from each school and college and indicate college degree(s) received, if any. Location of school must be shown; if located in a large metropolitan city (e.g., New York, Chicago, Los Angeles, etc.), borough or subdivision will be shown. Relate college years and place of residence with residences listed elsewhere. Names of schools and colleges attended in foreign countries must be shown in English and the language of the foreign country concerned. The specific school or college of all universities attended must be shown.

CAUTION: Be certain to show both month and year of attendances.

13. Citizenship. Citizenship status as reflected in this item(s) must be complete i.e., each block must be completed or annotated "N/A" as appropriate. If you are a naturalized citizen, list certificate number, date, and place of

naturalization court. If your citizenship is derived, list the certificate number(s) of your parents. Also in item 21, "Remarks" indicate the court of issuance, location, date and certificate number of parents' citizenship. If an alien, list your alien registration number, citizen of what country, date and place of entry into the United States, date petition of naturalization filed, date and court of issuance, and petition number. If you are stateless, so indicate in "Remarks" item or on separate sheet. If your naturalization application is pending, explain the circumstances in "Remarks" column or on separate sheet. For personnel born abroad of U.S. parents, enter date and port of initial entry into the United States, if known. If the information required above is not readily available, it must be obtained from parents or other sources in possession of such information.

CAUTION: This item *must* be properly completed in order to process your clearance.

14. Organizational Membership. Give pertinent information, including names and locations, of each organization of WHICH YOU ARE OR HAVE BEEN A MEMBER, and indicate any office held. National Guard and Reserve organizations (if not reflected elsewhere) must be listed. Show name and address of national organizations from which derived or with which affiliated. If this item does not apply enter "None."

CAUTION: Failure to properly complete this item will delay processing. Don't forget church organizations, Scouting organizations and similar organizations. If "*none*", it *must* be indicated as such.

15. Military Service. Complete all blocks, including item 7 on DD Form 48 and 49. Indicate the beginning and ending dates of each tour of extended active duty, even though separated to reenlist or to accept a commission. For each tour of active duty, indicate serial number in appropriate block, item 15. Indicate in item 7 serial number of last tour of duty. Indicate any current Reserve or National Guard affiliation, show current status, assignment, unit designation and location. Indicate local draft board and address, order number and classification, if applicable. If you have

registered and do not know the specific address give approximate location.

CAUTION: Be sure to provide service component and current status where required. Your form must reflect local draft board information. Failure to furnish draft classification if you are of draft age and have not completed your military obligations, or if you are not over 32 years of age, will cause rejection of your application.

16. Previous Clearance. Indicate by checking the appropriate block whether you have previously been granted access to classified information by any U.S. Government agency. For all personnel who indicate a personnel security clearance has ever been suspended, revoked, or denied by a Government agency, indicate the level of access to classified information at the time, full name and address of employer, and position held.

CAUTION: Failure to indicate in the "Remarks" section, level of access to classified information, full name and address of employer, and position held, would be cause for rejection.

17.a. Other Relatives. List full names of children, brothers, sisters and former spouse(s), preceded by appropriate identification, e.g., brother, sister, former spouse, etc. For married relatives, give both maiden and married name in full (e.g., Alice Mary Jones, nee Smith, also known as (AKA) Mrs. James Robert Jones). When listing former spouse(s), if deceased, so indicate. If divorced, list date and place where granted for each divorce. Give complete information concerning date and place of birth for each relative listed, as required. Complete addresses as required, to include street and number, city, county and State (if born in the United States). If born in another country than the U.S., include street and number, city and country.

b. Other Living Relatives, and Relatives of Spouse who are not United States citizens. All information regarding each relative required by the respective item of the DD Form involved must be furnished with complete identifying data. For other living relatives and relatives of spouse, include all relatives of both applicant and spouse (e.g., blood relatives and in-laws, foster parents, guardian,

stepchildren, adopted children, step-brothers and sisters, etc.). Give the current name of the country in which the place where the relative presently resides is located. If Germany indicate whether East or West.[1] In the case of foreign names and addresses, add the equivalent, Japanese, Chinese, or Korean characters (ideographs) or the Arabic script, as appropriate. When relatives or relatives of spouse reside in any of the following countries, the method (mail, personal visits, etc.), regularity and recency of contact, if any, with such relatives must be shown in the "Remarks" item (item 21 on DD Form 48 and 49), or on a separate sheet: Albania, Bulgaria, Chinese Peoples Republic (Communist China including Tibet), Cuba, Czechoslovakia, Democratic Peoples Republic of Korea (North Korea), Democratic Republic of Vietnam (North Vietnam), German Democratic Republic (GDR-East Germany, including the Soviet Sector of Berlin), Hungary, Kurile Islands, and South Sakhalin (Karafuto), Mongolian Peoples Republic (Outer Mongolia), Poland, Rumania, Union of Soviet Socialist Republics (U.S.S.R.), including Estonia, Latvia, Lithuania, and all other constituent republics and Yugoslavia.

18. Foreign Countries Visited or Resided In. List all periods of foreign travel or residence other than on behalf of the U.S. Government. This will include the duration of the visit (by month and year), the countries visited, the complete address where you resided in a foreign country and the purpose (business, vacation, etc.) of travel in each country. For foreign residence, indicate address in the foreign country concerned in sufficient detail to establish a positive location and give the current name of the country in which the place where you formerly resided or visited is located. If the country is Germany, indicate whether East or West Germany. If an individual makes frequent trips to Canada or to Mexico and cannot recall specific dates and places of travel, the following statement will be accepted by DISCO: "I reside in the United States—Canadian/Mexican border

[1] East Germany is German Democratic Republic (GDR) (including the Soviet Sector of Berlin). West Germany is Federal Republic of Germany (including the non-Soviet Sectors of Berlin.)

and make frequent visits to Canada or to Mexico for (e.g., recreation, entertainment, etc. purposes). My last visit was to *(indicate city—Canada/Mexico)* on *(indicate date or approximate date).*"

CAUTION: Failure to complete this item as to country visited and purpose of trip when travel is indicated will delay processing. If frequent visits are made to Canada or to Mexico for vacation purposes and exact dates are not known, so indicate. Don't forget to include the time you spent in the foreign country, if foreign born.

19. Foreign Representative. List all foreign governments, corporations, or persons by which you are OR HAVE BEEN EMPLOYED, or for whom you act as a representative; include specific Government Agency or activity (e.g., department, branch, division, etc.), or complete name of business organization(s) or person(s) by which employed, and complete address, dates of employment, or representative status and duties or responsibilities. If none, so indicate.

20. References. All character references must be adult persons and, where possible, should be individuals with whom a close and continuing relationship exists or has existed for at least five (5) years. If available, list both references, home and business address, and phone number. If the address is a small town or a rural or star route, give complete instructions from the post office or nearest town. For example: Rural Route No. 4, South side of Turner Road, proceed 1½ miles West on U.S. 191, 3 miles South of Memphis, Tennessee. If space is insufficient show the additional information in "Remarks" or on attached sheet. Do *NOT* list military references unless grade, unit, and complete address are known. If any references are located in a large metropolitan city (e.g., New York, Chicago, Los Angeles, etc.) indicate the borough or subdivision.

21. Remarks. There are two items for "Remarks." They are to be used for continuation of other items where insufficient space was provided. The first "Remarks" item on DD Forms 48 and 49 (item 21) is to be used to expand upon answers or statements in the "non-privileged" portion of the form. The second "Remarks" item on DD Forms 48 and 49

(item 28) is to be used to expand upon answers or statements in the "privileged" portion of the form. If you need more space, attach additional sheets and indicate by stating "See attached sheets" at the end of the space. All attached sheets must be signed by you.

22. Arrests. Questions AT THE BEGINNING of this item must be reviewed carefully and either "Yes" or "No" checked. If "Yes," list all information, including disposition. Include information if you were detained, held, arrested, or summoned into court (in the United States or in a foreign country) even though it resulted in an acquittal or the charges were dropped or dismissed. Any action which resulted in the placement of your name on a police blotter or court record must be listed. List all courts-martial, including place, date, charges, and disposition. Use "Remarks" item or separate sheet to explain in detail the circumstances of all incidents listed.

CAUTION: Your forms will be rejected if you fail to answer the question either "yes" or "no," or if you fail to give complete date, place, charge, and disposition of each case. Do not refer to Penal Codes in charges. The specific charge must be spelled out.

23. Military Discharge. If previously in military service, indicate type of discharge received for each tour of active duty.

24. Security Clearance. For all personnel who indicate a personnel security clearance has ever been suspended, revoked, or denied by a Government agency indicate the level of access to classified information at the time, full name and address of employer, and position held.

25. Mental or Nervous Disorders. Narcotic or Barbituate Addiction; Chronic Use to Excess of Alcohol. Check *all* appropriate boxes. If the answer to any of these questions is "Yes," include a complete explanation. If treatment was received from Veterans Administration, show the VA case number and type of treatment.

26. Release. Self-explanatory.

27. Organizational Membership. Membership in Organizations Designated by Attorney General. Read carefully the list of organizations designated by the Attorney Gener-

al. Also read questions 27a and 27b carefully. If you are now, or have ever been a member of these organizations, enter a complete and detailed explanation in the space provided or on attached sheets, if necessary.

28. Remarks. This item is to be used to expand upon answers or statements in the "privileged" portion of the form. If you need more space, attach additional sheets and indicate by stating "See attached sheets" at the end of the space. All attached sheets must be signed by you.

29. Certification. The certification at the end of each Department of Defense form should be read carefully and understood thoroughly before the form is signed. The information you have provided must be accurate in every detail and you must understand the implications of certifying to false statements. The original of the form must be signed in ink by you in the presence of the witness. The original of all addendum sheets required to complete the form must be signed by you. The witness shall sign the original of the form, but he is not required to sign addendum sheets.

[List of organizations designated under Executive Order 10450 omitted]

COURT'S INSTRUCTION NO. ____
DEFENDANT'S PROPOSED INSTRUCTION NO. 9

An essential element of all three counts is that when the defendant made the statements charged in the Indictment he knowingly and willfully made those statements to the Department of Defense.

Unless you find, beyond a reasonable doubt, that defendant knew his statements were being made to the United States Department of Defense, you must acquit.

Based on attached Memorandum of Points and Authorities

COURT'S INSTRUCTION NO. ____

DEFENDANT'S PROPOSED INSTRUCTION NO. 10

A statement is "false" or "fictitious", if untrue when made, and then known to be untrue by the person making it or causing it to be made. A statement or representation is "fraudulent", if known to be untrue, and made or caused to be made with the intent to deceive the Government agency to whom submitted.

Devitt and Blackmar, *Federal Jury Practice and Instructions* (3rd Ed.), Section 28.04 "False", "Fictitious", "Fraudulent"—Defined

Supreme Court of the United States

No. 83-346

UNITED STATES, PETITIONER,

v.

ESMAIL YERMIAN

ORDER ALLOWING CERTIORARI. Filed November 28, 1983.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted.